IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.150 (SS) OF 2005

Sanjeev Kumar,
S/o late Om Prakash,
R/o New Basti, Indira Nagar, Ward No.5, Tanakpur,
District-Champawat. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Transport, Dehradun.
2. General Manager, Uttaranchal State Transport Corporation, 117 Indira Nagar, Dehradun.
3. Regional Manager, Uttaranchal State Transport Corporation, Tanakpur Region, District-Champawat.

.....Respondents.

Mr. B.S.Khanka, Advocate for the petitioner.
Learned Standing Counsel for the respondent no.1.
Mr. A.N. Sharma, Advocate for the respondents no.2 and 3.

Dated: 03.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding and directing the respondents to give appointment to the petitioner on compassionate ground.

2. Briefly, stated, father of the petitioner was a blacksmith in the respondent's office and he died in motor accident on 22.12.2002 during his service. He is survived by his wife and four children.

3. The petitioner, who in 9th class passed, moved a representation on 31.07.2003 before the Regional Manager, Tanakpur for appointment on the post of Workshop Cleaner as a IVth Class employee in place of his father and all the relevant documents i.e. certificate of educational qualification, death certificate and affidavit of mother and elder sister regarding no objection for his appointment in place of his father.

4. When the said representation was not decided, the petitioner again sent a representation dated 22.02.2004 requesting him to give appointment on compassionate grounds.

5. A counter affidavit has been filed by the respondents, where in paragraph 6 it has been stated as under:-

"6. That thereafter since the corporation was in continuous heavy loss, as such the government vide order dated 22.1.2000 declared the corporation as sick industry, as such the Uttar Pradesh State Transport Corporation is exempted form the implementation of the dying in harness rules which was adopted vide Government Order dated 31.8.91, as such the instant writ petition is not maintainable on account of the fact that the death of Shri Om Prakash was happened on 22.12.2002 while there is clear order ion para no. 2 that this order is applicable on or after 22nd January, 2000. A copy of the order dated 17th April, 2002 is being annexed to this affidavit and marked as Annexure No.1. Uttaranchal Transport Corporation has adopted the Rules of U.P. State Road Transport Corporation and has yet not framed its rules as such the Rules of U.P. S.R.T.C. are applicable to U.A. Transport Corpn."

6. Looking to the grievance of the petitioner, respondents are directed to dispose of the representations (dated 31.07.2003 & 22.02.2004) of the petitioner within a period of

six weeks from the date of presentation of the certified copy of the order. Order dated 30.04.2005 shall be subject to the final order passed on the representation of the petitioner.

7. Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

03.03.2006
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